

IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA)	PRESENTENCE INVESTIGATION REPORT
)	
vs.)	Docket No. S4 94 CR 981-1(KTD)
)	S2 95 CR 167(KTD)
HARVEY WEINIG)	
)	Sentence Date: MARCH 22, 1996

Prepared For: HONORABLE KEVIN T. DUFFY
U.S. District Judge

Prepared By: JINEEN M. FORBES
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Offense: COUNT ONE OF S4 94 CR 981-1(KTD): CONSPIRACY TO COMMIT MONEY LAUNDERING (18 USC 1956(h)) CLASS C FELONY
COUNT THIRTY-EIGHT OF S4 94 CR 981-1(KTD): CRIMINAL FORFEITURE (18 USC 982(a)(1) and (b)(2); 21 USC 853(p))
COUNT ONE OF S2 95 CR 167(KTD): MISPRISION OF A FELONY (18 USC 4) CLASS E FELONY

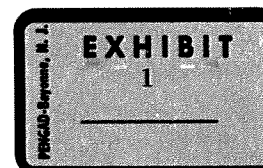
Penalties: COUNT ONE OF S4 94 CR 981-1(KTD): Up to twenty (20) years imprisonment; up to three years supervised release; a maximum fine of not more than \$500,000, or twice the value of the property involved in the offense; \$50 special assessment.
COUNT THIRTY-EIGHT OF S4 94 CR 981-1(KTD): The defendant is subject to forfeitures in an amount up to approximately \$19 million.
COUNT ONE OF S2 95 CR 167(KTD): Up to three years imprisonment; up to one year supervised release; a maximum fine of \$250,000; \$50 special assessment.

Release Status: Released on date of arrest (November 30, 1994), on \$1 million PRB, co-signed by 3 FRPs, surrender travel documents.

Detainers: None

Related Cases: See body of report.

Codefendants: See body of report.



Identifying Data:

Date of Birth: [REDACTED]

Race: White

Sex: Male

Marital Status: Married

Education: Post Grad. Degree

Dependents: Two

Address: [REDACTED]

Age: 47

S.S.# : [REDACTED]

FBI # : [REDACTED]

NYSID#: [REDACTED]

USM # : [REDACTED]

Other ID#: None

Citizenship: U.S.

Date Prepared: DECEMBER 19, 1995

Date Revised: MARCH 18, 1996

PART A. THE OFFENSE

Charge(s) and Conviction(s)

1. Two count Indictment 94 CR 981(KTD) was filed on December 13, 1994, in the Southern District of New York.
2. Count One charged that from in or about 1991, up to and including on or about November 30, 1994, in the Southern District of New York and elsewhere, HARVEY WEINIG, a/k/a "THE WING," TOHMES PETER, a/k/a "PETER THOMAS," a/k/a "MOTI," a/k/a "RENEE," JUAN GUILLERMO OCAMPO, a/k/a "PAUL," LEON SHULUM WEINMANN, RACHEL WEINMANN, MIGUEL OMAR GARRABITO BOTERO, a/k/a "MR. FRED," AMPARO HURTADO VALENCIA, a/k/a "HELEN," JULIANA LNU, a/k/a "BONNIE," CARLOS LOPEZ, GARY SALERNO, ALEXANDER SCHWARTZ, a/k/a "MR. R. ROSENBAUM," a/k/a "ROSENBERG," DONALD J. HAYDEN, LATCHEZAR CHRISTOV, a/k/a "LUCKY," and MENASHE LEIFER, along with co-conspirators RICHARD SPENCE and ROBERT HIRSCH, not named as defendants herein, and others known and unknown, conspired to violate Sections 1956(a)(1)(B)(i), 1956(a)(2)(B)(i) and 1957 of Title 18 of the United States Code, by participating in an international money laundering organization that laundered narcotics proceeds received from, among other places, the U.S. Canada and Puerto Rico.

(18 USC 1956(h))
3. Count Two charged that from in or about 1991 through up to an including on or about November 30, 1994, in the Southern District of New York, and elsewhere, the above named defendants and co-conspirators not charged as defendants herein, and others known and unknown, owned and controlled properties, real and personal, which were involved in the money laundering offense charged in Count One and are traceable to such properties. Such interests are subject to forfeiture to the U.S., pursuant to 18 USC 982(a)(1). Such forfeitable interests include, but are not limited to: (i) any and all interests held by HARVEY WEINIG, in the assets of the Hirsch-Weinig law firm, located at 1540 Broadway, Suite 29A, in New York City, including, but not limited to cash, checking accounts, savings accounts, accounts receivable, trust and escrow accounts, any leasehold interest in Suite 29A, furniture, fixtures, books and equipment; (ii) any and all interests held by HARVEY WEINIG in the contents of a Citibank, N.A. account, in the name of HIRSCH-WEINIG TRUST ACCOUNT, and (iii) any and all interests held by HARVEY WEINIG in the contents of an account held at Bank Leumi, located in Zurich, Switzerland.

-4-

4. From in or about 1991 up to and including on or about November 30, 1994, in the Southern District of New York and elsewhere, the above named defendants and co-conspirators not charged herein, and others known and unknown, owner or controlled properties real and personal which constituted and were derived from the proceeds of the money laundering offense charged in Count One. Such forfeitable property includes, but is not limited to, monies in excess of \$15 million involved in the money laundering offense charged in Count One.
5. HARVEY WEINIG, TOHMES PETER, JUAN GUILLERMO OCAMPO, LEON SHULUM WEINMANN, RACHEL WEINMANN, MIGUEL OMAR GARRABITO BOTERO, AMPARO HURTADO VALENCIA, JULIANA LNU, CARLOS LOPEZ, GARY SALERNO, ALEXANDER SCHWARTZ, DONALD J. HAYDEN, LATCHEZAR CHRISTOV, and MENASHE LEIFER, each of them, are jointly and severally liable for the forfeiture obligations as alleged above.
6. If any of the property described in paragraphs three (3) through five (5) above as being subject to forfeiture, as a result of any act or omission of any of the defendants, (a) cannot be located upon the exercise of due diligence; (b) has been transferred to, sold to, or deposited with a third person; (c) has been placed beyond the jurisdiction of the Court; (d) has been substantially diminished in value; and/or (e) has been commingled with other property that cannot be subdivided without difficulty; it is the intent of the U.S., pursuant to 18 USC 982(b)(1)(A), incorporating by reference to 21 USC 853(p), to seek forfeiture of any other property of the defendants up to the value of the property described in clauses (a) through (e) as being subject to forfeiture.

(18 USC 982(a)(1) and 982(b)(1)(A))
7. One Count Felony Information 94 CR 1049(LLS) was filed December 22, 1994, in the Southern District of New York.
8. The Information charged that from in or about 1991 until up to and including on or about November 30, 1994, in the Southern District of New York, DANIEL CARROLL (91339/J.M. Forbes), and co-conspirators RICHARD SPENCE, HARVEY WEINIG, and ROBERT HIRSCH, along with others known and unknown, did conspire together to violate Section 1957 of Title 18 of the U.S. Code, by engaging in and attempting to engage in monetary transactions in criminally derived property that was of a value greater than \$10,000 and was derived from narcotics trafficking.

-5-

(18 USC 1956(h))

9. On January 18, 1995, CARROLL pleaded guilty as charged, pursuant to a written plea agreement, before the Honorable Louis L. Stanton, U.S. District Judge. On June 21, 1995, CARROLL was sentenced to twenty-seven months imprisonment, which is to be followed by two years supervised release. The \$50 special assessment was also imposed.
10. On January 12, 1995, one count Felony Information 95 CR 40-1(RWS), was filed in the Southern District of New York.
11. The Information charged that from in or about 1991, up to and including on or about November 30, 1994, in the Southern District of New York, JOSE TANON (91313/J. Keeter), and co-conspirators RICHARD SPENCE, HARVEY WEINIG and ROBERT HIRSCH, along with others known and unknown, did conspire to violate 18 USC 1957, by engaging and attempting to engage in monetary transactions in criminally derived property that was of a value greater than \$10,000 and was derived from narcotics trafficking.

(18 USC 1956(h))

12. On January 27, 1995, JOSE TANON pleaded guilty as charged, before the Honorable Kathleen A. Roberts, U.S. Magistrate Judge. Sentencing remains pending.
13. ALEXANDER SCHWARTZ (91678/K. Gilliland) was named in one count Superseding Felony Information S1 94 CR 981(KTD) filed, March 17, 1995, in the Southern District of New York.
14. The Information charged that from on or about October 1993, up to and including on or about November 30, 1994, in the Southern District of New York SCHWARTZ, together with others known and unknown, conspired to violate 18 USC 1957, by engaging and attempting to engage in monetary transactions in criminally derived property that was of a value greater than \$10,000 and was derived from narcotics trafficking.

(18 USC 1956(h))

15. On March 17, 1995, SCHWARTZ pleaded guilty as charged, pursuant to a written plea agreement, before the Honorable Kevin T. Duffy, U.S. District Judge. He was sentenced on September 6, 1995 to 24 months imprisonment, three years supervised release, and a \$50 special assessment.

16. MENASHE LEIFER (91679/K.G. Gilliland) was named in one count Superseding Felony Information S2 94 CR 981(KTD), filed March 17, 1995, in the Southern District of New York.
17. The Information charged that from in or about October 1993, up to and including on or about November 30, 1994, in the Southern District of New York, LEIFER, along with others known and unknown, conspired to violate 18 USC 1957, by engaging and attempting to engage in monetary transactions in criminally derived property that was of a value greater than \$10,000 and was derived from narcotics trafficking.

(18 USC 1956(h))
18. On March 17, 1995, LEIFER pleaded guilty as charged, pursuant to a written plea agreement, before the Honorable Kevin T. Duffy, U.S. District Judge. On October 19, 1995, LEIFER was sentenced to 20 months imprisonment, to be followed by three years supervised release. The mandatory \$50 special assessment was also imposed.
19. DONALD J. HAYDEN (91702/V.Casanova-Scott) was named in three count Superseding Felony Information S3 94 CR 981(KTD), filed March 23, 1995, in the Southern District of New York.
20. Although the Government has not yet provided this office with a copy of the Superseding Information, it is known that Counts One and Two charged the defendant respectively, with violations of Title 18 USC 1956(h) and 982 and Title 21 USC 853(p), in connection with his participation, from in or about March 1994, through in or about November 1994, in a money laundering enterprise which received, transferred and laundered narcotics proceeds; and Count Three, which charged the defendant with violation of 18 USC 1343, in connection with his use of interstate wires to participate in a scheme to defraud the Automobile Club of Southern California of approximately \$4,111.46, by knowingly providing false and fabricated information to the club.
21. HAYDEN pleaded guilty as charged on March 23, 1995, before the Honorable Kevin T. Duffy, U.S. District Judge. Sentencing remains pending.
22. On April 20, 1995, Thirty-Eight count Indictment S4 94 CR 981(KTD) was filed in the Southern District of New York.

-7-

23. Count One charged that from in or about 1991, up to and including on or about November 30, 1994, in the Southern District of New York and elsewhere, HARVEY WEINIG, TOHMES PETER, a/k/a "PETER THOMAS," a/k/a "MOTI," a/k/a "RENEE," JUAN OCAMPO, a/k/a "PAUL," LEON SHULUM WEINMANN, RACHEL WEINMANN, MIGUEL OMAR GARRABITO BOTERO, a/k/a "MR. FRED," AMPARO HURTADO VALENCIA, a/k/a "HELEN," JULIANA LNU, a/k/a "BONNIE," CARLOS LOPEZ, GARY SALERNO, and LATCHEZAR CHRISTOV, a/k/a "LUCKY," along with co-conspirators RICHARD SPENCE and ROBERT HIRSCH, not named as defendants herein, did conspire to violate Sections 1956(a)(1)(B)(i), 1956(a)(2)(B)(i) and 1957 of Title 18, by: (1) knowing that the property involved in certain financial transactions represented the proceeds of narcotics trafficking, conducted and attempted to conduct, financial transactions which were designed to conceal and disguise the nature, location, source, ownership and control of the proceeds of narcotics trafficking; (2) by transporting, transmitting and transferring funds from the United States to a place outside of the United States, knowing that the funds involved were the proceeds of narcotics trafficking and that said transfer was designed to disguise and conceal the nature and source of the proceeds; and (3) by engaging in monetary transactions with criminally derived property with a value greater than \$10,000.

(18 USC 1956(h))

24. Counts Two through Twenty-Two charged that from on or about January 14, 1994, through on or about September 3, 1994, in the Southern District of New York and elsewhere, HARVEY WEINIG, LEON SHULUM WEINMANN, RACHEL WEINMANN, GARY SALERNO, AND LATCHEZAR CHRISTOV, a/k/a "LUCKY," knowing that the property involved in certain financial transactions represented the proceeds of narcotics trafficking, did conduct the movement, pickup, transportation, transfer, delivery receipt and transmission of cash on the approximate dates and in the approximate amounts set forth below, knowing that the transactions were designed to conceal the nature, location, source, ownership and control of the proceeds of narcotics trafficking:

<u>COUNT</u>	<u>APPROX. DATES</u>	<u>APPROX AMTS</u>	<u>DEFENDANT</u>
Two	01/14 - 01/17/94	\$ 676,392	SALERNO
Three	03/29 - 03/30/94	\$ 590,567	CHRISTOV
Four	04/11 - 04/13/94	\$ 273,000	CHRISTOV

-8-

Five	04/19 - 05/31/94	\$ 800,000	WEINIG
Six	06/08/94	\$ 695,000	L. WEINMANN, R. WEINMANN
Seven	06/09/94	\$1,038,000	CHRISTOV
Eight	06/10/94	\$ 970,000	L. WEINMANN, R. WEINMANN
Nine	06/19/94	\$ 500,000	SALERNO
Ten	06/22/94	\$ 465,000	L. WEINMANN, R. WEINMANN
Eleven	06/27/94	\$ 850,000	WEINIG
Twelve	06/28/94	\$ 261,312	WEINIG, L. WEINMANN R. WEINMANN
Thirteen	06/29/94	\$ 294,507	WEINIG, L. WEINMANN R. WEINMANN
Fourteen	07/01/94	\$ 240,180	WEINIG, L. WEINMANN R. WEINMANN
Fifteen	07/07/94	\$ 600,000	WEINIG
Sixteen	07/19/94	\$ 930,000	WEINIG
Seventeen	07/19/94	\$ 900,000	WEINIG
Eighteen	08/05/94	\$ 490,000	SALERNO
Nineteen	08/09/94	\$ 405,000	WEINIG
Twenty	08/15/94	\$ 999,750	SALERNO
Twenty-one	08/22/94	\$ 999,545	SALERNO
Twenty-two	09/03/94	\$ 755,668	SALERNO

(18 USC 1956(a)(1)(B)(i) and 2)

-9-

25. Counts Twenty-three through Twenty-nine charged that from on or about June 8, 1994, through on or about July 19, 1994, in the Southern District of New York and elsewhere, **HARVEY WEINIG**, LEON SHULUM WEINMANN and RACHEL WEINMANN, transported, transmitted, transferred and attempted to transfer funds from the United States to a place outside of the United States, knowing that the funds represented the proceeds of narcotics trafficking, and knowing that such transportation was designed to conceal and disguise the nature, location, source, ownership and control of the proceeds, as follows:

<u>COUNT</u>	<u>APPROX. DATES</u>	<u>APPROX AMTS</u>	<u>DEFENDANT</u>
Twenty-three	06/08/94	\$ 695,000	L. WEINMANN R. WEINMANN
Twenty-four	06/10/94	\$ 970,000	L. WEINMANN R. WEINMANN
Twenty-five	06/22/94	\$ 465,000	L. WEINMANN R. WEINMANN
Twenty-six	06/28/94	\$ 261,312	WEINIG L. WEINMANN R. WEINMANN
Twenty-seven	06/29/94	\$ 294,507	WEINIG L. WEINMANN R. WEINMANN
Twenty-eight	07/01/94	\$ 240,180	WEINIG L. WEINMANN R. WEINMANN
Twenty-nine	07/19/94	\$ 900,000	WEINIG

(18 USC 1956(a)(2)(B)(i) and 2)

26. Count Thirty charged that between September 20, 1994 and on or about September 22, 1994, in the Southern District of New York, **HARVEY WEINIG**, knowing that the property involved in certain financial transactions represented the proceeds of narcotics trafficking, did deliver approximately \$200,000 in cash to ROBERT HIRSCH, the deposit of said cash at a bank in New York and the wire transmission of said cash from that bank to accounts abroad, knowing that the transaction was designed to conceal the nature and source of the proceeds.

-10-

(18 USC 1956(a)(1)(B)(i) and 2)

27. Count Thirty-one charged that on or about October 4, 1994, in the Southern District of New York, HARVEY WEINIG, knowing that the property involved in a financial transaction represented the proceeds of narcotics trafficking, wire fraud and theft, did deliver approximately \$248,920 in cash to ROBERT HIRSCH, for deposit at a bank in New York and subsequent wire transmission of said cash from that bank to accounts abroad, knowing that the transaction was designed to conceal the nature and source of the proceeds.

(18 USC 1956(a)(1)(B)(i) and 2)

28. Count Thirty-two charged that between September 20, 1994 and on or about September 22, 1994 in the Southern District of New York, HARVEY WEINIG gave ROBERT HIRSCH approximately \$200,000 which WEINIG had obtained by theft and fraud for the express purpose of transferring the money in interstate and foreign commerce, and which money was then transferred by wire from New York to accounts abroad.

(18 USC 2314 and 2)

29. Count Thirty-three charged that on or about October 4, 1994, in the Southern District of New York, HARVEY WEINIG provided ROBERT HIRSCH with approximately \$248,920, which WEINIG had obtained by theft and fraud for the express purpose of transferring the money in interstate and foreign commerce, and which money was then transferred by wire from New York to accounts abroad.

(18 USC 2314 and 2)

30. Count Thirty-four charged that from on or about April 4, 1994, through on or about April 19, 1994, in the Southern District of New York and elsewhere, HARVEY WEINIG, along with ROBERT HIRSCH and RICHARD SPENCE, not named as defendants herein, devised and carried out a scheme through which they collected approximately \$2.4 million on behalf of their clients and customers, fabricated a criminal indictment to falsely create the impression that SPENCE had been arrested and his assets frozen by the United States, and then stole from their clients and customers, the money that had been collected, rather than remitting the money to those clients and customers.

(18 USC 1343 and 2)

-11-

31. Count Thirty-Five charged that on or about February 14, 1994, in the Southern District of New York and elsewhere, HARVEY WEINIG, along with ROBERT HIRSCH and RICHARD SPENCE, not named as defendants herein, caused a claim of ownership to be filed with the DEA concerning the seizure of approximately \$267,830 in cash from defendant ALEXANDER SCHWARTZ by the DEA in San Juan, Puerto Rico, in which SPENCE falsely stated in a sworn affidavit prepared and drafted by and at the specific request of WEINIG and HIRSCH, among other false statements, that the money seized by the DEA was owned by SPENCE and that it represented "a portion of the proceeds of payment due to [SPENCE] for a sale of precious stones acquired and sold overseas."

(18 USC 1001 and 2)

32. Count Thirty-Six charged that on or about March 24, 1994, in the Southern District of New York and elsewhere, HARVEY WEINIG, along with ROBERT HIRSCH and RICHARD SPENCE, not named as defendants herein, caused a claim of ownership to be filed with the DEA concerning the seizure of approximately \$676,392 in cash from defendant GARY SALERNO by the DEA in Houston, Texas, in which SPENCE falsely stated in a sworn affidavit prepared and drafted by and at the specific request of WEINIG and HIRSCH, among other false statements, that the money seized by the DEA was owned by SPENCE and that it represented "a portion of the proceeds due to [SPENCE] for a sale of precious stones acquired and sold overseas."

(18 USC 1001 and 2)

33. Count Thirty-Seven charged that on or about July 13, 1994, in the Southern District of New York and elsewhere, HARVEY WEINIG, along with ROBERT HIRSCH and RICHARD SPENCE, not named as defendants herein, caused two claims of ownership to be filed with the DEA concerning the seizure of approximately \$802,893 in cash from defendant ALEXANDER SCHWARTZ and approximately \$1,053,200 in cash from defendant CHARLES BRUNO by the DEA in Houston, Texas, in which SPENCE falsely stated in a sworn affidavit prepared and drafted by and at the specific request of WEINIG and HIRSCH, among other false statements, that the money seized by the DEA was owned by SPENCE and that it represented "a portion of the proceeds due to [SPENCE] for a sale of precious stones acquired and sold overseas."

(18 USC 1001 and 2)

-12-

34. Count Thirty-Eight charged that from in or about 1991 up to and including on or about November 30, 1994, in the Southern District of New York and elsewhere, HARVEY WEINIG, TOHMES PETER, a/k/a "PETER THOMAS," "MOTI," "RENEE," "JUAN GUILLERMO OCAMPO, a/k/a "PAUL," LEON SHULUM WEINMANN, RACHEL WEINMANN, MIGUEL OMAR GARRABITO BOTERO, a/k/a "MR. FRED," AMPARO HURTADO VALENCIA, a/k/a "HELEN," "JULIANA LNU," a/k/a "BONNIE," CARLOS LOPEZ, GARY SALERNO, and LATCHEZAR CHRISTOV, a/k/a "LUCKY," the defendants, and co-conspirators RICHARD SPENCE and ROBERT HIRSCH, not charged as defendants herein, and others known and unknown, owned and controlled properties, real and personal which were involved in the money laundering offense charged in Count One and are traceable to such properties. Such interests are subject to forfeiture to the United States, pursuant to 18 USC 982(a)(1).

(18 USC 982(a)(1) and 982(b)(1)(A))

35. On September 21, 1995, LATCHEZAR CHRISTOV pleaded guilty to Counts One and Thirty-Eight of S4 94 CR 981-13(KTD), pursuant to a written plea agreement. Sentencing is scheduled for February 14, 1996.
36. RICHARD SPENCE was named in six count Superseding Information 95 CR 380(KTD), filed May 4, 1995, in the Southern District of New York.
37. SPENCE subsequently pleaded guilty as charged on May 11, 1995, before the Honorable Kevin T. Duffy, U.S. District Judge, and continues in remand, while awaiting sentencing, which remains pending.
38. On May 19, 1995, Information (S5) 94 CR 981(KTD) was filed in the Southern District of New York.
39. The Information charged that in October 1993, LEON SHULUM WEINMANN and RACHEL WEINMANN caused a \$20,000 fully endorsed third party check to be sent from New York City, a place in the United States to Zurich, Switzerland, without filing a Report of International Transportation or Currency or Monetary Instruments, Customs Form 4790, as required by 31 C.F.R. § 103.23.

(31 U.S.C. § 5316(a)(1)(A), 5322(a);
31 C.F.R. § 103.23; 18 U.S.C. § 2)

-13-

40. On May 19, 1995, LEON SHULUM WEINMANN and RACHEL WEINMANN pleaded guilty as charged in the Information, before the Honorable Kevin T. Duffy, U.S. District Judge, pursuant to individual, similar, written plea agreements.
41. It was also stipulated for both WEINMANNs that they had previously been charged with Money Laundering in Switzerland, and that they agreed to return to Switzerland immediately to address those charges; additionally, the U.S. Attorney's office agreed with the Swiss government to resolve this case promptly so that these defendants would be able to immediately return to Switzerland to address charges there. In this regard, the parties waived the preparation of a pre-sentence report. In light of the unique circumstances of the WEINMANN's case, the Government agreed not to take a position with respect to the WEINMANN's sentencing.
42. On May 19, 1995, LEON SHULUM WEINMANN and RACHEL WEINMANN were sentenced to 1 year unsupervised probation, a \$1,000 fine (each), and a \$50 special assessment. It was represented that after the fines were paid, the WEINMANNs were escorted to a flight to Switzerland and their departure to that country was verified.
43. The Government has represented that it is noteworthy to mention that this case represents the second largest money laundering case in Swiss history. As such, Swiss officials urged the Government to release the WEINMANNs. This was requested, and complied with, for the sole purpose of addressing the pending prosecution in that country.
44. GARY SALERNO subsequently pleaded guilty to Count One only of 94 CR 981(KTD), on December 21, 1995, before the Honorable Kevin Thomas Duffy, U.S. District Judge. Sentencing remains pending.
45. One count Felony Information S2 95 CR 167(KTD), was filed on September 21, 1995, in the Southern District of New York.
46. The Information charged that from on or about November 15, 1994, through on or about February 8, 1995, in the Southern District of New York, HARVEY WEINIG, having knowledge of the abduction of James Clooney as a means of extorting the payment of approximately \$237,000, in violation of 18 USC 1951, did knowingly conceal and not make the felony known to any person in civil or military authority under the United States.

(18 USC 4 and 2).

47. On September 21, 1995, WEINIG pleaded guilty to Counts One and Thirty-Eight of S4 94 CR 981-1(KTD), and as charged in S2 95 CR 167(KTD), pursuant to a written plea agreement, before the Honorable Kevin T. Duffy, U.S. District Judge. Sentencing is scheduled for March 22, 1996.
48. Pursuant to a letter from Assistant U.S. Attorney Mark P. Goodman, to John R. Wing, Esq., dated September 20, 1995, the prosecution and defense have agreed that in consideration of the defendant's plea to the above noted offenses, at the time of sentencing, the Government will move to dismiss the remaining twenty-one counts against the defendant in S4 94 CR 981(KTD) and to dismiss Indictment S1 95 CR 167(KTD) in its entirety.
49. With respect to the guidelines, the parties have stipulated that:
Count One of S4 94 CR 981-1(KTD)--The Money Laundering Conspiracy:
- a. Count One charges a conspiracy to launder money, in violation of 18 USC 1956(h). Because two of the objects of the conspiracy are violations of 18 USC 1956(a)(1)(B)(i) and 1956 (a)(2)(B)(i), Sentencing Guidelines §2S1.1(a)(2) is applicable, resulting in a base offense level of 20;
 - b. The defendant knew or believed, or acted with a conscious purpose to avoid learning the truth, that the funds were the proceeds of unlawful activity involving the manufacture, importation, and distribution of narcotics, resulting in a three-level increase, pursuant to §2S1.1(b)(1);
 - c. The value of the funds laundered by the defendant and his co-conspirators was approximately \$19 million, resulting in a nine-level enhancement, in accordance with §2S1.1(b)(2)(K);
 - d. As an attorney licensed to practice law in the State of New York, the defendant abused a position of trust and/or used a special skill in the commission of the offense, resulting an enhancement of two-levels pursuant to Section 3B1.3;
 - e. In accordance with paragraphs a through d, the total offense level for Count One is 34. (However, under the U.S. Sentencing Commission's proposed amendments to the guidelines, the defendant's base offense level would be 12, pursuant to 2S1.1(a)(2); there would be a 17 level enhancement based on the amount of money laundered [\$19 million], pursuant to §2S1.1(a)(2) and the table located in Section 2F1.1; there would be an additional 2 level enhancement, in accordance with

-15-

§2S1.1(b)(1)(A) because the transactions were designed in whole or part to conceal or disguise the proceeds of criminal conduct; 2 levels would be warranted, in accordance with 2S1.1(b)(1)(B)(A) and (B) because the offense involved the movement of funds through a company or financial institution outside of the United States, and otherwise involved a sophisticated form of money laundering; there would be a 2 level enhancement for abuse of trust and special skill [3B1.3]; and there would be a 3 level reduction for acceptance of responsibility, in accordance with §3E1.1(b). Accordingly, under the proposed amendments, the applicable offense level for Count One would be 32).

Count One of S2 95 CR 167(KTD)-- The Misprision of Felony Information:

a. Sentencing Guidelines Section 2X4.1 is applicable to this offense and provides for a base offense level of nine (9) levels lower than the offense level for the underlying offense.

b. The underlying offense is obstructing, delaying and affecting commerce by participating in a scheme to extort money and property in violation of 18 USC 1951, to which U.S. S.G. §2B3.2 is applicable, which results in a base offense level of 18. The amount of money the participants in the scheme attempted to extort was approximately \$237,000, resulting in a two-level enhancement, in accordance with §§2B3.2(b)(2) and 2B3.1(b)(6)(C). A person was abducted to facilitate commission of the offense, resulting in a four-level increase, pursuant to §2B3.2(b)(5)(A). Accordingly, the base offense level for the underlying offense of extortion is 24.

c. Section 2X4.1 directs that nine levels be subtracted from the base offense level for the underlying offense, resulting in an offense level of 15.

Multiple Count Analysis

a. The offenses of conviction as noted above may not be grouped, in accordance with 3D1.2;

b. Because, as set forth above, the offense level applicable to Count One of S4 94 CR 981-1(KTD) is nine or more levels higher than the offense level for S2 95 CR 167(KTD), the combined offense level for both counts is 34, pursuant to §3D1.4;

c. By pleading guilty in a timely manner and allocuting to the satisfaction of the Court, WEINIG will have demonstrated a "recognition and an affirmation of personal responsibility for his criminal conduct," and will have permitted the Government to avoid additional preparation for trial, thereby permitting the Court to allocate its resources efficiently, thus warranting a three-level reduction for Acceptance of Responsibility, in accordance with §3E1.1(b).

In accordance with paragraphs a through c above, the total offense level for all of the offenses is 31.

50. Based upon the information now available to the Government, including representations made by the defense, the defendant has no prior criminal convictions and a Criminal History Category of I is applicable.
51. Based on a total offense level of 31 and a Criminal History Category of I, the guideline range of imprisonment is from 108 to 135 months.

Forfeiture

52. It is understood by the parties that pursuant to 18 USC 982, the defendant agrees to forfeit to the United States all right, title and interest that he has in the following assets and/or properties (which constitute both the proceeds of, and a portion of the aggregate value of the monies handled by the conspirators in the course of, the money laundering offense described in Count One of S4 94 CR 981(KTD): (i) the real property and building known as 48 Maidstone Lane, Amagansett, New York; (ii) approximately \$695,827 in U.S. currency provided by Robert Hirsch to the Government on or about September 22, 1994; (iii) approximately \$248,920 in U.S. Currency provided by Robert Hirsch to the Government on or about October 4, 1994; (iv) the contents of the account in the name of "HARVEY WEINIG" located at Bank Leumi, Zurich, Switzerland, bearing the account number [REDACTED]; (v) the contents of the account in the name of "Transglobal Commercial Credit Corp.," located at Swissbank Corporation, Chur, Switzerland, bearing the account number [REDACTED]; (vi) the assets of Hirsch Weinig, formerly located at 1540 Broadway, Suite 29A, New York, New York ("Hirsch Weinig"), including, but not limited to cash, checking accounts, savings accounts, trust and escrow accounts, any leasehold interest in Hirsch Weinig, fixtures, books, equipment and accounts receivable; and (vii) the contents of the account in the name of Hirsch-Weinig Trust Account located at Citibank, New York, New York,

bearing the account number [REDACTED]; it is understood, however, that prior to conveying his interest in the aforementioned assets and/or properties to the United States, the defendant shall use the proceeds and/or contents of those assets and/or contents of those assets and/or properties to pay, through Bart M. Schwartz, Esq. the monitor of Hirsch Weinig, current Hirsch Weinig liabilities in the sum of approximately \$10,000 in trade accounts payable, approximately \$25,000 to David Robinson, Esq., for his representation of Hirsch Weinig in the matter captioned Berger Steingut & Stern v. Hirsch Weinig, et al., No. 120945/93, and approximately \$45,000 to Berger Steingut & Stern in settlement of the matter captioned Berger Steingut & Stern v. Hirsch Weinig, et al., No. 120945/93. The defendant agrees to take all necessary action to place these assets in the possession custody and control of the United States.

53. The parties agree that neither an upward nor downward departure is warranted.
54. The stipulations are not binding on the Court or Probation Department.
55. As the instant offenses occurred after November 1, 1987, the Sentencing Reform Act of 1984 is applicable.

Related Cases

56. See Offense Section of the report, as outlined below.

The Offense Conduct

57. The purpose of this offense section is to provide an overview of the instant offense. Specific offense behavior of individual defendants will be discussed in their respective presentence reports.
58. Beginning in February 1994, the FBI, Drug Enforcement Administration (DEA), and the New York City Police Department (NYPD), have been jointly investigating a substantial international money laundering organization ("the Organization") which has laundered tens of millions of dollars in narcotics proceeds in the U.S. This investigation involved DEA seizures of money in the U.S. and Puerto Rico; the assistance of a confidential informant (CI); the use of undercover agents and physical surveillance.

-18-

59. Additionally, the above named law enforcement agencies have relied on reviews of various public documents; numerous consensually recorded telephone conversations; and interceptions made during an SDNY narcotics wiretap investigation which commenced on or about May 10, 1994.
60. According to the case agent, when discussing their conduct over the telephone, the defendants used code words during their conversations in an attempt to disguise the true nature of their conversations; therefore, when discussing currency, the defendants referred to same as "paper;" and the term "container," was used to refer to units of \$1 million dollars.

Overview of the Organization--Roles of the Participants

61. At all relevant times, **HARVEY WEINIG** was a lawyer licensed by and practicing in, New York State and was one of the principals, along with co-conspirator **ROBERT HIRSCH**, in the firm of **Hirsch-Weinig**, located at 1540 Broadway, Suite 29A, in New York City. The **Hirsch-Weinig** law firm was used in part by the Organization to conceal its illegal activities. **WEINIG**, who was identified by the case agent as one of the leaders of the Organization, operated primarily out of his offices at the law firm, where he engaged in, among other things, banking transactions on behalf of the Organization and consulted with co-conspirators **ROBERT HIRSCH** and **RICHARD SPENCE**, a/k/a "DICK," a/k/a "CHARLIE," about the Organization's activities.
62. Additionally, consensually monitored conversations as well as information provided by the CI, revealed that **WEINIG** stored the proceeds of his money laundering activities in his apartment, located at 110 Riverside Drive, in New York City.
63. **ROBERT HIRSCH** was also an attorney licensed by, and practicing in, New York State. **HIRSCH** operated out the offices he shared with **WEINIG** and performed various tasks on behalf of the Organization, including coordinating money laundering activities with **SPENCE** in New York, and with **PETER, OCAMPO** and the **WEINMANNS** in Europe.
64. **CHAIM HERMAN**, another leader of the Organization in the U.S., was primarily responsible for all cash pick-ups in the U.S. and for transferring cash from the United States to the **WEINMANNS** in Switzerland. **HERMAN** later worked with **SPENCE** laundering money on behalf of the Organization.

65. According to the case agent, RICHARD SPENCE was one of the leaders of the Organization in the United States and was responsible for organizing money pickups, depositing large sums of cash into bank accounts without raising suspicion, and transferring that cash to various accounts via wire transfers. SPENCE, a former New York City fireman, operated several businesses at [REDACTED] Bronx, New York, including a trucking company, a beer distributorship, and a home oil heating company. According to the Government, this location was also used in part by the Organization to further and to conceal its illegal activities.
66. TOHMES PETER, a/k/a "PETER THOMAS," a/k/a "MOTI," a/k/a "RENEE," and JUAN GUILLERMO OCAMPO, a/k/a "PAUL," operated primarily in Germany, where they conferred with various members of the Organization, including LEON SHULUM WEINMANN, RACHEL WEINMANN, HIRSCH and SPENCE. According to the case agent, TOHMES PETER and OCAMPO formerly resided together in Mulheim, Germany. TOHMES PETER has also been identified by the agent as one of the Organization's leaders.
67. As previously noted, JUAN GUILLERMO OCAMPO, who is also a leader of the Organization in Europe along with TOHMES PETER, resided in and operated out of Mulheim, Germany. According to the case agent, OCAMPO was previously convicted in New York State of Criminal Sale of a Controlled Substance, and was sentenced to five years to life imprisonment; he was subsequently released on parole in or about May, 1987. The defendant was subsequently re-arrested in Colombia, South America on or about September 29, 1994.
68. LEON SHULUM AND RACHEL WEINMANN received transfers of funds in Switzerland on behalf of the Organization and remitted the funds to bank accounts designated by the Organization's customers.
69. MIGUEL OMAR GARRABITO BOTERO, a/k/a "MR. FRED;" AMPARO HURTADO VALENCIA, a/k/a "HELEN;" JULIANA LNU [Last Name Unknown], a/k/a "BONNIE;" and CARLOS LOPEZ, resided in and operated from Colombia, South America, where they were responsible for among other things, ensuring that funds laundered by the Organization were eventually remitted to the Organization's customers. According to the case agent, all of these defendants are considered the leaders of the Colombian wing of the Organization and all are believed to be associated with the Cali cocaine cartel in Colombia.

-20-

70. The remaining co-conspirators have been labeled "couriers" or "other key members of the Organization."
71. MICHAEL T. KALANZ, a/k/a "MIKE THE COP," is a police officer currently assigned to the 48th Precinct in the Bronx. KALANZ, among other things, was responsible for counting and storing substantial amounts of currency and transporting it to banks on behalf of the Organization. According to the case agent, KALANZ has stored hundreds of thousands of dollars in his locker at the Precinct.
72. GARY SALERNO was responsible for, among other things, picking up and transporting narcotics proceeds for the Organization. In addition, SALERNO acted as an enforcer for the Organization, intimidating and collecting money from various individuals.
73. On July 21, 1994, SALERNO was arrested by the New York City Police Department and charged with Extortion Involving Physical Injury and Attempted Grand Larceny. This case is currently pending.
74. On November 16, 1994, SALERNO was arrested in the Eastern District of New York (94 Mag. Dkt. No. 1790), charging him with a Conspiracy to Traffick in Firearms, in violation of 18 USC 371 and 922(g). On that same day, a search of the defendant's residence revealed that he possessed what was labeled by the agent as a "hitman's kit," containing a garrotte, which is a device used to strangle and sever the vocal chords of its intended victim; three pairs of handcuffs; ammunition; and a law enforcement badge bearing someone else's name. Additionally, a handgun, two rifles, ammunition and a bugging device, among other things were recovered during the search.
75. CHARLES BRUNO, is a New York City fireman, currently assigned to Engine Company 307, in Queens, New York. He has also been identified as a courier for the Organization.
76. DANIEL CARROLL, JOSE TANON, who was employed by RICHARD SPENCE, and ALEXANDER SCHWARTZ, a/k/a MR. R. ROSENBAUM;" a/k/a "ROSENBERG," who is also a Rabbi, travelled to various cities in the United States and abroad to pick up narcotics proceeds for the Organization and return the proceeds to New York City. CARROLL was described as one of SPENCE'S "most trusted couriers."

-21-

77. DONALD J. HAYDEN received large quantities of cash at his office at Laidlaw Equities, located at 100 Wilshire Boulevard, Santa Monica, California, which he then shipped via Federal Express to SPENCE in New York. According to the National Association of Securities Dealers, HAYDEN is a registered representative for Laidlaw Equities, a full service brokerage firm that obtains private funds for investing in commodities.
78. LATCHEZAR CHRISTOV, a/k/a "LUCKY," is also a registered representative for Laidlaw Equities, and like HAYDEN, received narcotics proceeds and other cash in California, which he then shipped via overnight mail services to New York. CHRISTOV is also reportedly Honorary Consul general for the Republic of Bulgaria and was accredited by the Bulgarian Government to this position on or about October 1, 1993. (According to the case agent, this defendant is a part-time employee of the Republic of Bulgaria and has "personal inviolability only in connection with official acts and enjoys only the more restricted form of official acts immunity accorded U.S. nationals or permanent residents, and immunity from the obligation to provide evidence as witnesses only in respect of official acts").
79. MENASHE LEIFER, who is also reportedly a Rabbi, worked with SPENCE and HERMAN, and operated in New York, where, among other things, he transported narcotics proceeds and performed various other tasks in furtherance of the Organization's activities.
80. ROBERT JANZ, a/k/a "BOBBY," was responsible for bringing cash that had been received and counted by the Organization to a bank for deposit and sometimes acted as a courier. JANZ was also employed as a dispatcher by SPENCE.
81. SYLVIA EZELL was employed as a secretary for SPENCE at his office and made arrangements on behalf of the Organization to pick up, transport, and wire transfer the proceeds of illegal narcotics trafficking.
82. PATRICIA DILLUVIO was employed as an Assistant Branch Manager for Citibank located at 1010 Morris Park Avenue, Bronx, New York. She accepted large sums of cash brought by other members of the Organization and transferred the funds through various accounts on behalf of the Organization.

-22-

THE ORGANIZATION

83. As previously written, the Organization was comprised of over thirty members, and was based in various cities around the world, including, but not limited to Mulheim, Germany; Zurich Switzerland; Cali, Colombia; Los Angeles, California; and New York City, and was responsible for laundering tens of millions of dollars in narcotics proceeds. The Organization also picked up, transported and laundered narcotics proceeds generated in Canada and Puerto Rico. To date, the Government has seized approximately \$4,984,064 in narcotics proceeds from members of the Organization.
84. The Organization has been laundering narcotics proceeds in the U.S. for at least three years. Typically, a member of the Organization was contacted by narcotics traffickers or their representatives, who arranged to drop-off a sum of money, ranging from tens of thousands, to hundreds of thousands of dollars, on the street or in a hotel room in a given city. A member of the Organization was then sent to the location to retrieve the proceeds and, if the pick-up took place outside of New York City, would return to New York with the money. Narcotics proceeds that were picked up in New York City or returned to the City were then turned over to one of the Organization leaders, who would count and deposit the money into a bank account from which it was then transferred by wire or otherwise to Europe or elsewhere. In exchange for their services, Organization members would receive a percentage of the amount of funds laundered for any particular customer.
85. During the course of the conspiracy, methods used and members of the Organization changed. According to the Government, in the early stages of the Organization's operation in the U.S., CHAIM HERMAN was primarily responsible for picking up money to be laundered in the U.S., Puerto Rico, and Canada and then transferring the money to the WEINMANNNS, in Zurich, Switzerland. Eventually, PETER, or OCAMPO began to contact SPENCE and later HIRSCH, when there was cash to be picked up in any of the above noted territories. After PETER and OCAMPO began contacting HIRSCH as their primary contact in the U.S., HIRSCH would contact SPENCE, who would arrange for the cash to be picked up and brought back to him in New York.

-23-

86. Couriers sent by SPENCE would pick up bundles of money in suitcases or boxes and transport them back to SPENCE'S place of business. If the pick up was made outside of New York, a courier would either personally carry the money back to New York, or would send the money back via overnight mail services, like Federal Express. Once the cash was received at SPENCE'S business, SPENCE would arrange, through one or more bank employees, who were also part of the conspiracy, to have the cash to be deposited into bank accounts, including accounts controlled by SPENCE, as well as WEINIG and HIRSCH. The three defendants would subsequently have the funds transferred by wire to the WEINMANNS in Switzerland, or to one of several other accounts. The WEINMANNS would then send the funds to bank accounts designated by the Organization's customers.
87. As previously noted, from at least 1991 through the November 1994, the Organization had been picking up large quantities of cash in various cities throughout the U.S. Puerto Rico, Canada and Europe. On various occasions, couriers had been stopped by law enforcement officials and the money they were carrying was seized. In 1993 and 1994, couriers were arrested in San Juan, Puerto Rico, and Houston, Texas. Additionally, the Government indicated that certain members of the Organization had stolen money that they were supposed to have been laundering, and created fraudulent documents to make it appear as though the money had been seized by the Government. As a result of both the actual and fabricated seizures, some Organization members met with each other to discuss ways of avoiding seizures. Many of these meetings were observed by law enforcement agents and occasionally, Organization conversations were wiretapped and recorded.
88. According to a CI, from January 31, 1994, until February 2, 1994, the WEINMANNS, HERMAN, PETER, HIRSCH and others met in Switzerland to discuss the business of the Organization. During this meeting, the WEINMANNS and HIRSCH participated in a discussion surrounding the Organization's money laundering business. The WEINMANNS reportedly stated that they had laundered approximately \$72 million, along with PETER during the previous year.
89. The CI informed that a subsequent meeting took place in Zurich, lasting from June 28 through June 30, 1994, consisting of PETER, the WEINMANNS, HIRSCH and others. During these meetings, HIRSCH--on behalf of PETER, asked the WEINMANNS to extend credit to PETER, which they reportedly agreed to do.

-24-

90. The CI informed case agents that by April 19, 1994, SPENCE had amassed about \$2.5 million in narcotics proceeds that he had collected on behalf of the Organization, but rather than launder the funds as usual, SPENCE, HIRSCH and WEINIG kept the money, which they reportedly split amongst themselves. The three defendants then created a fraudulent Indictment relating to SPENCE and a fraudulent document purporting to reflect the seizure of the cash by DEA agents. John R. Wing, counsel for the defendant, noted that the fraudulent indictment and other documents were created by HIRSCH alone.
91. Between May 1994 and November 1994, the Organization continued in their laundering activities; however, the actual seizures by law enforcement, along with the theft of funds by Organization members, resulted in pressure being placed on the Colombian leaders of the Organization by their clients. As a result of substantial amounts of money being lost, VALENCIA AND BOTERO threatened PETER, OCAMPO and HIRSCH with physical harm, if money was not remitted as scheduled. In one instance, OCAMPO'S brother was kidnaped in Colombia. HIRSCH'S life was also threatened, after which he, WEINIG and SPENCE pooled some of the money that they had previously stolen and sent the money to the Organization clients awaiting remittance.
92. During the course of this conspiracy, the Government intercepted "hundreds" of conversations pertaining to the money laundering operation; surveilled at least ten (10) cash pickups by "the SPENCE organization," throughout the U.S. Canada and Puerto Rico; seized approximately \$5 million; and collected evidence regarding the laundering of approximately \$50 million, not including the Organization's European and South American connections.

HARVEY WEINIG

93. The defendant's role in this offense has been previously discussed above. WEINIG was reportedly involved in this offense from October 1993, until his arrest in November 1994.
94. On November 4, 1993, the Hirsch-Weinig law firm filed a civil complaint in the Eastern District of New York against the Sands Hotel on behalf of SCHWARTZ claiming that on October 6, 1993, SCHWARTZ had left a suitcase containing \$260,000 with the Sands Hotel and that the hotel either wilfully or negligently allowed someone else to take it. Subsequently on February 14, 1994, SPENCE, WEINIG and Hirsch filed a claim of ownership with the DEA in which SPENCE swore that, among other

things, the \$267,830 seized from "Rabbi" ALEXANDER SCHWARTZ by the DEA on October 6, 1993 belonged to him and represented the proceeds of payment "for a sale of precious stones by [me] acquired and sold overseas. Rabbi Schwartz was engaged by [me] to deliver this payment to [me]." SPENCE further swore that the transaction that "was the subject of the seized payment in this matter could be typical of scores, indeed hundreds of daily transactions on 47th Street in New York City."

95. On July 13, 1994, SPENCE, WEINIG and Hirsch filed a claim of ownership with the DEA in which SPENCE swore that the \$1,053,200 seized from CHARLES BRUNO by the DEA on January 5, 1994 was SPENCE'S money and that "Mr. Bruno was carrying these funds as expense money for the business trip for which [I] engaged him." Additionally, on July 13, 1994, SPENCE, WEINIG and Hirsch filed another claim of ownership with the DEA in which SPENCE swore that the \$1,010 seized from BRUNO by the DEA on January 5, 1994 was "owned by [me] and represents a portion of payment due to me for a sale of precious stones and metals acquired and sold overseas. Mr. Bruno was engaged to deliver this payment to [me]."
96. SPENCE, WEINIG and Hirsch also filed a claim of ownership with the DEA on July 13, 1994, in connection with the seizure of \$802,893 by the DEA on January 6, 1994. In that claim, SPENCE swore that the money belonged to SPENCE "and represents a portion of the proceeds of a payment due to [me] for a sale of precious stones and metals acquired and sold overseas. Mr Schwartz was engaged to deliver this payment to [me]."
97. On March 24, 1994, SPENCE, WEINIG and Hirsch filed a claim of ownership with the DEA in which SPENCE swore that \$676,392 seized from GARY SALERNO by the DEA on January 14, 1994 was SPENCE'S money and "represents a portion of the proceeds due to [me] for a sale of precious stones and metals acquired and sold overseas. Mr. Salerno was engaged to deliver this payment to [me]." A CI subsequently informed the case agent that in March 1994, WEINIG, SPENCE and Hirsch discussed how to characterize the source of the seized currency in filings made to the authorities and agreed that they would claim that the money represented the proceeds of business transactions involving diamonds and rubies.

-26-

98. According to defense counsel, the three above-noted transactions "were created by HIRSCH based on papers he had used in an earlier forfeiture matter he had handled for TOHMES PETER well before he became WEINIG'S partner. The papers contained a false affidavit signed by SPENCE and although [Mr.] WEINIG was aware of the filing of these papers, he was not personally involved in preparing or filing the papers."
99. On June 3, 1994, at approximately 1:30 p.m., during a telephone conversation between Hirsch and SPENCE, they agreed that Hirsch would give "HARVEY [WEINIG] some spending money," and SPENCE said that he would not "tell him anything, just give it to him."
100. On July 15, 1994, at approximately 10:48 a.m., Hirsch called WEINIG at his office, and said that he had done a "three-way" with the bank and that the bank had just done it. Hirsch told WEINIG to "leave instructions to fax the federal wire numbers." Hirsch then asked WEINIG whether they should wire a one-sentence confirmation, to which WEINIG replied that they should wait until that Monday because it was not urgent. Hirsch then informed WEINIG that "the urgency is that the idiot [TOHMES] PETER needs the million."
101. At approximately 5:00 p.m., on September 22, 1994, Hirsch called WEINIG at his office. WEINIG told Hirsch that BOTERO had called and then provided BOTERO's beeper and telephone numbers to Hirsch. WEINIG and Hirsch then discussed monies owed to certain Colombians, including BOTERO, and WEINIG told Hirsch that he had spoken to SPENCE and that SPENCE had assured him that approximately \$200,000 that WEINIG and Hirsch had given to SPENCE for deposit had been sent to VALENCIA.
102. WEINIG also said that he had checked the Citibank account [the Transglobal account] into which the money had been deposited and had discovered that the money was still in the account, in response to which Hirsch stated that he was worried that SPENCE had not sent the money. WEINIG then told Hirsch not to worry because they could pay down the debt owed to VALENCIA using money from accounts in Switzerland, if necessary, to which Hirsch replied that the money in Switzerland was not theirs. WEINIG also said that they had money in escrow accounts and that they could send directly from their office if necessary.

-27-

103. According to case agents, the investigation revealed that **WEINIG** and Hirsch maintained two numbered accounts at Bank Leumi in Switzerland, the aggregate balance of which at the time of their conversation was approximately \$320,000.
104. Also in connection with this conversation, on September 21, 1994, DEA agents conducting a surveillance observed Hirsch and EZELL entering the Morris Park Citibank in possession of a box containing approximately \$200,000 in U.S. currency, and observed them leaving shortly thereafter without the box.
105. On September 22, 1994, three UCs met with SPENCE at his Florida residence. One of the UCs told SPENCE that he wanted the \$500,000 in cash that SPENCE had lost returned to him or fifty kilograms. SPENCE said that he did not handle merchandise [cocaine], and that he would pay the UC the money.
106. Later that day, Hirsch called SPENCE, who said that three guys visited him, handed him items taken from his Mercedes, and asked for the "stuff" or the \$500,000. Hirsch asked if they were "nasty," and SPENCE replied that they were polite. Hirsch asked if they were Colombian, and SPENCE indicated that they were. SPENCE said that he expected **WEINIG** and Hirsch to each pay a one-third share of the \$500,000, and that either **WEINIG** or Hirsch had to take a ride down to Florida in order to transport the money to SPENCE.
107. Hirsch called **WEINIG** at his office on September 30, 1994, and told him that BOTERO was the principal of everyone in Colombia. Hirsch then explained the money problems arising from the debt owed to BOTERO, and **WEINIG** acknowledged the problem. **WEINIG** then said, "listen, let's not talk about this on the phone," and Hirsch responded by asking **WEINIG** for the number of **WEINIG's** private telephone line at the office. **WEINIG** then provided the number and stated that he did not believe his private line was any more secure. During their discussion, Hirsch informed **WEINIG** that the checks had been dropped off and asked if **WEINIG** had photocopied them. **WEINIG** responded that he had not photocopied the checks, but that he did have a list of where the checks had gone, and Hirsch asked **WEINIG** to put it in a facsimile to BOTERO. Hirsch said that he had explained the situation to VALENCIA with regard to BOTERO. Hirsch then told **WEINIG** that in a prior conversation he had had with BOTERO, BOTERO had implied that OCAMPO might be dead, to which **WEINIG** replied, "let's not talk about it." **WEINIG** then stated that it would be interesting to see if Hirsch heard from VALENCIA again. **WEINIG** also told Hirsch that he had a long talk with SPENCE and said that Hirsch

-28-

should not be sharing information with SPENCE because SPENCE was not being as cooperative as expected.

108. Later in their conversation, **WEINIG** asked Hirsch if **BOTERO** spoke english, and when Hirsch informed him that he spoke a little, **WEINIG** stated, "good, maybe we got a new client." **WEINIG** then told Hirsch that he should ask SPENCE to "get his girl on board" in case they needed her.
109. Lastly, in their conversation, **WEINIG** expressed his concern that he and Hirsch might have paid out too much money, to which Hirsch replied that they would make it back in the future.
110. On October 2, 1994, Hirsch called SPENCE and said that he had spoken with **BOTERO**, who said that **PETER** and **OCAMPO** had been stealing money. Hirsch stated that **JULIANA LNU** and **BOTERO** mentioned coming to New York to meet with Hirsch, and SPENCE told him that he still had records. SPENCE asked about **PETER**, and Hirsch said that he told them all about **PETER** and wanted to help them find him. SPENCE told Hirsch that he did not think it was a good idea to help them find **PETER** because "[I] think he can hurt us." SPENCE said that he did not think **WEINIG** would continue in the business, and Hirsch responded by saying that **WEINIG** liked "shoe boxes," [cardboard boxes containing bundles of money]. SPENCE then asked if **WEINIG** had given Hirsch money yet, to which Hirsch replied that he would get it the next day and that **WEINIG** "knows we have to pay off the Colombians...he knows we'll make it back."
111. On October 4, 1994, at approximately 10:21 a.m., agents conducting surveillance observed **WEINIG** leave his residence carrying a black nylon bag, place the bag in the trunk of a car being driven by Hirsch, and then meet with Hirsch inside of the car. The CI subsequently informed the case agent that the bag contained approximately \$250,000.
112. The CI also informed the case agent that on November 15, 1994, SPENCE informed **WEINIG** that he had kidnapped someone who had swindled him in a mortgage company deal. The following day, **WEINIG** said that SPENCE was sending someone over to the offices of **Hirsch-Weinig** to resolve the matter by having him make conveyances of cash and art to SPENCE. **WEINIG** stated that he wanted to leave the office before the person with the cash and art arrived and **WEINIG** assigned another lawyer at the firm to handle the conveyances. Later that day, FBI agents conducting a surveillance outside **Hirsch-Weinig** observed a person carrying paintings into the building in which the firm

is located.

113. WEINIG is captured over telephone wiretaps on November 16, 1994, discussing the kidnapping of an individual identified as "Clooney," with HIRSCH. During their conversation, WEINIG tells HIRSCH of the crime that was purportedly carried out by GARY SALERNO, at the direction of RICHARD SPENCE. When HIRSCH tells WEINIG that he was obligated to report the crime, WEINIG stated that "I don't have an obligation. If he tells me..." And later in the conversation, "if he tells me a crime is going to be committed, then I have an obligation, I have to disclose it or go to the authorities, but he didn't do that..."
114. However HIRSCH stated to WEINIG that "he [SPENCE] told you he grabbed someone. We knew about it. It's okay that we knew about it..." to which WEINIG responded, "I don't know anything about it. That's my position."
115. The CI informed agents that in the Summer of 1994, WEINIG told the CI that he stored money that he had obtained as a result of his participation in the Organization at his home at Meeting House Lane.
116. ROBERT HIRSCH was subsequently arrested in September 1994.
117. On September 29, 1994, the Colombian National Police attempted to arrest several subjects relating to an unrelated investigation. JUAN GUILLERMO OCAMPO was among those arrested at that time.
118. MIGUEL OMAR GARRABITO BOTERO; AMPARO HURTADO VALENCIA; JULIANA [LNU]; and CAROLS LOPEZ remain fugitives.
119. TOHMES PETER was arrested on November 30, 1994, in Germany. The case agent informed that PETER will be prosecuted in that country for the offense.
120. All of the remaining defendants were arrested in the United States on November 30, 1994.

Adjustment for Obstruction of Justice

121. The probation officer has no information to suggest that the defendant impeded or obstructed justice at the time of the arrest, or during the investigation or prosecution of the offense.

-30-

Adjustment for Acceptance of Responsibility

122. The defendant has provided a lengthy written statement, which has been attached to this report in its entirety.

Offense Level Computation

123. The post-November 1, 1995, U.S. Sentencing Guidelines were utilized in selecting the applicable guideline ranges.
124. Pursuant to Sections 3D1.1 and 3D1.2, the extortion charged as an underlying offense in Count One of S2 95 CR 167(KTD), which is covered by §2B3.2, may not be grouped with other offenses. Therefore, Count One of S4 94 CR 981(KTD) and Count One of S2 95 CR 167(KTD), will be analyzed separately below.
125. **Base Offense Level of Count One of S4 94 CR 981(KTD):** The guideline for an 18 USC 1956(h) offense is found in Section 2S1.1 of the Guidelines. As two of the objects of the conspiracy charged in Count One were violations of 18 USC 1956(a)(1)(B)(i) and 1956(a)(2)(B)(i), Section 2S1.1(a)(2) is applicable to this offense and has a base offense level of 20. 20
126. **Specific Offense Characteristics:** As the defendant knew or believed [or acted with a conscious purpose to avoid learning the truth], that the funds were the proceeds of an unlawful activity involving the manufacture, importation, or distribution of narcotics or other controlled substances, a three-level enhancement is warranted, in accordance with the provisions of §2S1.1(b)(1). +3
127. **Specific Offense Characteristics:** In accordance with §2S1.1(b)(2)(J), a nine-level enhancement is warranted because the value of the funds was more than \$10 million, [but less than \$20 million]. +9
128. **Victim Related Adjustments:** None 0

-31-

129. **Adjustment for Role in the Offense:** As the defendant is an attorney, he possesses a "special skill" as defined by §3B1.3, Application Notes 1 and 2 (Abuse of Position of Trust or Special Skill); further, Weinig apparently used this skill to cause false claims to be filed by other co-conspirators and caused to be prepared, false affidavits which were presented to the DEA to make false representations regarding money laundered by the co-conspirators. Therefore, a two-level enhancement appears to be warranted, in accordance with the provisions of §3B1.3. +2
130. **Adjustment for Obstruction of Justice:** None 0
131. **Adjusted Offense Level -- Count One of S4 94 CR 981(KTD) (Subtotal):** 34
132. **Count One of S2 95 CR 167(KTD):**
133. **Base Offense Level:** The guideline for an 18 USC 4 offense is found in Section 2X4.1, Misprision of a Felony, of the guidelines, and provides for a base offense level that is nine (9) levels lower than the offense for the underlying offense.
134. The underlying offense is obstructing, delaying and affecting commerce by participating in a scheme to extort money and property, in violation of 18 USC 1951, which is covered by U.S.S.G. §2B3.2. The base offense level under 2B3.2 is 18; the amount of money the participants in the scheme attempted to extort was approximately \$237,000, resulting in a specific offense characteristic increase of two-levels (2B3.2(b)(2) and 2B3.1(b)(6)(C); a person was abducted to facilitate commission of the offense, resulting in a four-level increase (2B3.2(b)(5)(A)). Therefore, the total offense level for the underlying offense is 24.
135. As §2X4.1 requires subtracting nine-levels from the base offense level of the underlying offense, the base offense level for this offense shall be 15. 15
136. **Specific Offense Characteristics:** None. 0
137. **Victim Related Adjustments:** None. 0
138. **Adjustment for Role in the Offense:** 0
139. **Adjustment for Obstruction of Justice:** 0

-32-

140. Adjusted Offense Level for Count One of S2 95 CR 167(KTD)
(Subtotal): 15

DETERMINING THE COMBINED OFFENSE LEVEL:

141. The combined offense level is determined by taking the offense level applicable to the Group with the highest offense level and increasing the offense level by the amount of units indicated in the table in Section 3D1.4.

Adjusted Offense Level for the First Group of Closely Related Counts:

142. Count Number(s): Count One of S4 94 CR 981(KTD): 34 1 Unit

Adjusted Offense Level for the Second Group of Closely Related Counts:

143. Count Number(s): Count One of S2 95 CR 167(KTD): 15 0 Units

144. Total Units: 1

145. Increase in Offense Level Based on Total Units: 0

146. Greater of the Offense Levels From Above: 34 (Count One of S4 94 CR 981(KTD))

147. Combined Adjusted Offense Level (sum of lines 142 and 143): 34

148. Adjustment for Acceptance of Responsibility: Based on the defendant's plea of guilty, it is believed that Weinig has shown recognition of responsibility for the offense; further, by pleading guilty in a timely manner, the defendant allowed the Court and Government to allocate their resources more efficiently. Therefore, a reduction of three levels for Acceptance of Responsibility is considered applicable under section 3E1.1(b). -3

149. Total Offense Level: 31

150. Chapter Four Enhancements: None 0

151. Total Offense Level: 31

Offense Behavior Not Part of Relevant Conduct

152. None.

PART B. THE DEFENDANT'S CRIMINAL HISTORY

Juvenile Adjudication(s)

153. None known.

Adult Criminal Conviction(s)

154. A check with the FBI and the New York State Division of Criminal Justice Services, Bureau of Identification, reveals no prior criminal record for this defendant.

Criminal History Computation

155. The defendant has no known criminal convictions. Therefore, the defendant has zero criminal history points and a Criminal History Category of I.

Other Criminal Conduct

156. None known.

Pending Charges

157. None known.

Other Arrests

158. None.

PART C. OFFENDER CHARACTERISTICS

Personal and Family Data

159. [REDACTED]

WEINIG, HARVEY

92747-J.M. FORBES

-34-

160.

161.

162.

163.

164.

165.

166.

167. [REDACTED]

168. [REDACTED]

169. [REDACTED]

170. [REDACTED]

171. [REDACTED]

172. [REDACTED]

173. [REDACTED]

174. On March 16, 1980, Weinig married the former Alice Morey, an attorney, in Westminster, Vermont. From this marital union two sons, Jacob, age 13; and Samuel, age 9, were born.
175. Weinig informed that his son Samuel witnessed his father's arrest and as a result, suffered Post Traumatic Stress Syndrome, for which he is currently undergoing therapy on a bi-weekly basis. Samuel has also been prescribed anti-depressants by his therapist, whom he began seeing in the spring of 1995. The defendant stated that Samuel also suffers from palsy of the optic nerve which causes his right eye to shut without cause, a syndrome which developed when he was approximately one year old.
176. Weinig stated that Jacob enjoys good overall health, but is "very concerned" about his father and wants to know "about the case."
177. The defendant described his marital relationship as "excellent" and stated that he and his wife enjoy a mutually loving and supporting relationship.
178. Alice Weinig was interviewed as part of this investigation and was able to verify all of her husband's pertinent information.
179. Ms. Weinig described also described her marital relationship in favorable terms, indicating that she and her husband are "each other's best friend." The defendant's wife stated that [the instant offense] has "been a nightmare that won't go away;" however, she said that their family "is very strong and this has made them stronger." Mrs. Weinig also stated that she is "terrified of [Weinig] going to jail for a long time" and said that the children "will be devastated" because the defendant is "an integral part of [all of] their lives."
180. Mrs. Weinig described her husband as a "mediator" and said that he "doesn't come across too many people that he does not take care of." She also stated that Weinig is "someone who touches people" and is "thought well of by many others."
181. Mrs. Weinig stated that her husband "loved being a lawyer" and was never concerned with financial gain. She said that his only concern was that his family was "safe and secure, [but] not pampered." Mrs. Weinig indicated that it will "be difficult for her alone."

Physical Condition

182. Weinig stands 5'6" tall, weighs 175 pounds and has brown hair and eyes. [REDACTED]

183. [REDACTED]

184. [REDACTED]

185. [REDACTED]

186. [REDACTED]

187. [REDACTED]

188. [REDACTED]

189.

[REDACTED]

190.

[REDACTED]

191.

[REDACTED]

192.

[REDACTED]

Mental and Emotional Health

193. Weinig impressed as being of average intelligence and responded coherently and relevantly to all questions posed during the presentence interview.
194. According to a letter from Dr. Steven Roose, Weinig first consulted Dr. Roose (a psychiatrist), in March 1994. "He presented with a many year history of chronic depressive symptoms, including decreased self esteem, depressed mood, irritability and no ability to experience pleasure. The diagnosis was dysthymia, a form of chronic depression and treatment was initiated with [Prozac]. [Weinig] had a moderate response to medication which was continued over the next many months."

WEINIG, HARVEY

92747-J.M. FORBES

-39-

195.

[REDACTED]

196.

[REDACTED]

197.

[REDACTED]

198.

[REDACTED]

199.

[REDACTED]

Substance Abuse

200. [REDACTED]
201. [REDACTED]
202. [REDACTED]

Educational and Vocational Skills

203. As verified by school records, Weinig received his Degree of Juris Doctor on June 2, 1974, from Hofstra University Law School. He previously received a Bachelor of Arts Degree in English, from Hobart College, on June 15, 1969. According to college records, Weinig graduated with honors.

Employment

204. From September 1974 until November 30, 1994, Weinig was an attorney practicing in New York State. Following his arrest, he reportedly resigned from the American Bar Association. At the time of the presentence interview, the defendant informed that he did not know if he would be dis-barred, but stated that he "needs a new career."
205. Between 1974 and approximately 1976, Weinig was employed with the Community Legal Assistance Corporation at Hofstra University, a legal service agency working with the indigent.
206. From 1976 until approximately 1978, the defendant was employed with the law firm of Rivkin, Leff & Sherman, located in Garden City, New York, doing commercial and civil litigation work.
207. Weinig informed that following his resignation from the above named law firm, he formed The Law Offices of Harvey Weinig, which he maintained for one year.

-41-

208. From approximately 1979, until "the end of 1988," the defendant worked with the law firm of Ressa, Nappi & Weinig, in Port Washington, New York.
209. Weinig informed that in 1989, he became of counsel to Berger Steingut & Stern; he subsequently became a partner of the firm in 1990. Weinig stated that law firm ultimately collapsed in May 1993.
210. From May 1993, until his arrest on November 30, 1994, Weinig was partners with Robert Hirsch in the law firm of Hirsch Weinig. According to the defendant, the firm was "dismantled by the Government" in March 1995. He also stated that all of the firm's assets were frozen on the date of his arrest.
211. Since the defendant's arrest, Weinig has been performing volunteer work as a "reader," for a blind sociology professor, at the Lighthouse; and doing legal research for the Legal Services for the Elderly and the Coalition For the Homeless.

Financial Condition: Ability to Pay

212. The following information was obtained by interviewing the defendant, reviewing his personal financial statement and reviewing a credit report generated by this office.
213. The credit report lists the following accounts and balances:

ACCOUNT NAME

CURRENT BALANCE

[REDACTED]

214.

[REDACTED]

215.

[REDACTED]

216.

[REDACTED]

217.

[REDACTED]

218.

[REDACTED]

219.

[REDACTED]

220.

[REDACTED]

221.

[REDACTED]

WEINIG, HARVEY

92747-J.M. FORBES

-43-

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235. It should be noted that the undersigned was contacted by Neil Berger, Esq., on behalf of Togut, Segal and Segal, the Successor Chapter 7 Bankruptcy Trustee of Berger, Steingut and Stern, whose case is pending before the United States Court for the Southern District of New York. In his letter dated January 4, 1996, Mr. Berger informed that it was Albert Togut's concern, as the trustee, "that funds and property seized [in the above criminal matters] actually constitute vested property of Berger Steingut's bankruptcy estate are not properly forfeitable, and may be forfeited to the United

States of America when Weinig is sentenced.

236. Mr. Berger advised in his submission that "there is a very strong likelihood that the accounts receivable seized by the Government, the proceeds thereof, account balances and cash include the Berger Steingut Accounts and the proceeds thereof, which are vested in the Berger Steingut bankruptcy estate, not the Government. Those assets do not in any way appear to constitute the proceeds of any criminal activity on the part of the defendants or property used to facilitate their criminal activities. As a result, those assets are not properly forfeitable property and should be turned over to the Successor Trustee."
237. Mr. Berger stated that the Successor Trustee "was not a party to the [September 20, 1995] plea agreement between [Mr.] Weinig and the Government...Notwithstanding, on [page 6] of the plea agreement it was 'agreed' that of the more than \$1 million seized from the defendants [Weinig and Hirsch], \$45,000 would be paid to Berger Steingut in settlement of its \$250,000 claim in the State Court Action regarding the Berger Steingut Receivables. The Successor Trustee never agreed to that settlement..."
238. A complete copy of Mr. Berger's submission to the undersigned will be forwarded to the Court prior to sentencing.
239. It should be noted that following initial disclosure of this report, defense counsel disputed Mr. Berger's claims and has submitted his response as noted in the Addendum to Presentence Report, and has provided an Amended Answer and Counterclaims document which shall be forwarded to the Court.

PART D. SENTENCING OPTIONS

Custody

240. **Statutory Provisions -- Count One of S4 94 CR 981(KTD):** Up to twenty (20) years imprisonment (18 USC 1956(h)); **Count One of S2 95 CR 167(KTD):** Up to three (3) years imprisonment (18 USC 4).
241. **Guideline Provisions:** Based on a total offense level of 31 and a Criminal History Category of I, the guideline range of imprisonment is from 108 to 135 months.

-46-

242. If the applicable guideline range is in "Zone D" of the Sentencing Table, the minimum term shall be satisfied by a sentence of imprisonment (5C1.1(f)).

Impact of Plea Agreement

243. As the applicable guideline range was calculated based upon the entire criminal activity charged in the Indictment, no change in the guideline range has occurred as a result of the plea agreement.

Supervised Release

244. **Statutory Provisions -- Count One of S4 94 CR 981(KTD):** For a class C felony, a term of up to three years supervised release is authorized to follow any term of imprisonment (18 USC 3583(b)(2));
Count One of S2 95 CR 167: For a class E felony, a maximum term of one year supervised release is authorized to follow any term of imprisonment (18 USC 3583(b)(3)).
245. Multiple terms of supervised release shall run concurrently with one another (18 USC 3324(e)).
246. **Guideline Provisions -- Both Counts:** A term of supervised release to follow any period of custody of more than one year is mandatory (5D1.1(a));
Count One of S4 94 CR 981(KTD): For a class C felony, a term of supervised release of at least two, but not more than three years is authorized to follow any period of custody (5D1.2(a)(2));
Count One of S2 95 CR 167(KTD): For a class E felony, a term of supervised release of not more than one year is authorized to follow any term of imprisonment (5D1.2(a)(3)).

Probation

247. **Statutory Provisions -- Both Counts:** For felonies, a term of probation of not less than one, nor more than five years is authorized (18 USC 3561(b)(1)). Absent extraordinary circumstances, if probation is imposed, the court shall impose a special condition requiring a fine, restitution, or community service (18 USC 3563(a)(2)).

-47-

248. Multiple terms of probation, whether imposed at the same time or at different times, run concurrently with each other (18 USC 3564(b)).
249. **Guideline Provisions:** Pursuant to §5B1.1, Application Note 2, where the applicable guideline range is in "Zone C or D" of the Sentencing Table, (i.e., the minimum term of imprisonment specified in the applicable guideline range is eight months or more), the guidelines do not authorize a sentence of probation.

Fines

250. **Statutory Provisions -- Count One of S4 94 CR 981(KTD):** A maximum fine of approximately \$38 million (18 USC 1956(h)); **Count One of S2 95 CR 167(KTD):** A maximum fine of \$250,000 is authorized (18 USC 3571(b)(3)).
251. A special assessment of \$50 on each count for a total of \$100 is mandatory, pursuant to 18 U.S.C. 3013.
252. **Guideline Provisions:** The fine range for this offense is from \$15,000 to \$38 million (5E1.2(c)(4)(A)).
253. Subject to the defendant's ability to pay, the court shall impose an additional fine amount that is at least sufficient to pay the costs to the Government of any imprisonment, probation, or supervised release, pursuant to U.S.S.G. 5E1.2(i). The most recent advisory from the Administrative Office of the U.S. Courts suggests that a monthly cost of \$1,779.33 be used for imprisonment, a monthly cost of \$195.30 for supervision, and a monthly cost of \$1,183.08 for community confinement.

Restitution

254. **Statutory Provisions:** Not applicable.
255. **Guideline Provisions:** Not applicable.

Denial of Federal Benefits

256. **Statutory Provisions:** Not applicable.
257. **Guideline Provisions:** Not applicable.

WEINIG, HARVEY

92747-J.M. FORBES

-48-

PART E. FACTORS THAT MAY WARRANT DEPARTURE

258. The Probation Office has no information available to indicate that a departure from the guidelines is warranted.

Respectfully submitted,

CHRIS J. STANTON
Chief U.S. Probation Officer

By: Jinben M. Forbes
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/jmf

Approved By: Chris A. Palladino 3/19/96
CHRIS A. PALLADINO Date:
Supervisor